

Attorney Docket No. 25346B

REMARKS

The applicants have carefully reviewed and considered the Office Action of 13 August 2007. In response the applicants traverse the rejections of the claims without making any amendments. The rejections of the claims will be discussed in detail in the following subparagraphs.

**I. THE REJECTION OF CLAIMS 1-3 UNDER 35 U.S.C. §102(e) AS ANTICIPATED
BY U.S. PATENT 7,093,397 TO NORDGREN ET AL**

Claim 1 reads on a laminated insulation system comprising an insulated core having a first surface and a second surface. A decorative facer is adhered to the first surface while a structural facer is adhered to the second surface. That decorative facer is identified as being "exposed".

As set forth in MPEP §2131, "to anticipate a claim, the reference must teach every element of the claim". As will be explained in detail below, the Nordgren et al reference fails to teach every element of claim 1 and, accordingly, does not anticipate the claim under 35 U.S.C. §102(e). Thus, the rejection of claim 1 as well as claims 2 and 3 dependent thereon should be withdrawn and these claims should be allowed.

More specifically, the Nordgren et al reference discloses a sheathing adapted to be fastened to a wall supporting structure. As illustrated in Figure 7 and described at column 8, line 60 to column 9, line 3 of the Nordgren et al reference, the sheathing 52 is installed to a plurality of wall supporting structures or studs 22. The sheathing is covered on the outer face by a siding 56. While not explicitly illustrated, an interior wall covering such as drywall covers the sheathing 52 on the opposite sides of the studs 22. Accordingly, the sheathing 52 disclosed in the Nordgren et al reference is secured to the studs 22 in a closed space and none of the surfaces of the sheathing 52 are exposed.

In the 13 August 2007 Office Action it is stated that, "[t]he Examiner is equating layer 12, which may be a polymeric scrim, made of polyolefin's (column 5, lines 28+), and is equivalent to applicants decorative layer." This interpretation of the Nordgren et al

reference is absolutely contrary to the teachings of the reference.

More specifically, the Nordgren et al reference explicitly teaches that the scrim layer 12 is a structural rather than a decorative layer. At column 2, lines 31-33, it is stated, "[t]he polymeric scrim layer 12 of the present invention provides additional strength and durability to the polymeric foam layer 14." At column 8 lines 64-66 it is stated that the "sheathing 52 is installed to a plurality of wall supporting structures 22 using the polymeric scrim layer 112". From these statements it is clear that Nordgren et al teaches that the layer 12 is structural not decorative. Further, applicant is unaware of any reported decision that allows an Examiner to ignore the explicit teachings of the cited reference and substitute the teachings of the present invention in order to formulate a proper rejection.

The Nordgren et al reference also discloses laminates wherein the layer 18 (see Figure 5) and the layer 20 (see Figure 6) are outer layers of the laminate. With regard to layer 18, column 7, lines 42-47 provide that it is "preferably made from a high impact polystyrene because of its desired stiffness." Column 7, lines 54-59 provide that the film layer 20 provides "additional strength and durability". Thus, the Nordgren et al reference explicitly teaches that the layers 12, 18 and 20 are all structural in nature. None of the layers are decorative. This is not surprising since the sheathing that is the subject of the Nordgren et al invention is secured in a closed space between an exterior wall covering such as siding or brick and an interior wall covering such as drywall. Since the sheathing has no surface exposed to view when in use, there is no motivation whatsoever to provide any form of decorative surface.

At no point does the Nordgren et al reference disclose a sheathing incorporating any decorative layer much less a laminated insulation system including an insulated core with an exposed decorative facer layer adhered to the first surface and a structural facer adhered to the second surface. Thus, it is clear that the Nordgren et al reference fails to teach every element of the claim and, therefore, does not provide a proper basis for the

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rejection of independent claim 1 or claims 2 or 3 dependent thereon. Accordingly, these claims should be allowed.

II. THE REJECTION OF CLAIM 4 UNDER 35 U.S.C. §103(a) AS OBVIOUS OVER THE NORDGREN ET AL REFERENCE WHEN CONSIDERED IN COMBINATION WITH U.S. PATENT 5,665,447 TO GREAVES ET AL

As noted above, the primary reference to Nordgren et al fails to disclose a laminated insulation system including a decorative facer of any type much less an exposed decorative facer adhered to a first surface of an insulated core as set forth in claim 1. Claim 4 depends from claim 1 and incorporates this structure.

The Examiner argues that the secondary reference to Greaves et al teaches insulated products comprising a core and adjacent layers which may be made from fiberglass. While it may have been obvious to form one of the layers of the Nordgren et al reference with a fiberglass material as taught in Greaves et al, the resulting structure still fails to incorporate an exposed decorative facer. Further, one skilled in the art would not provide a decorative facer on the Nordgren et al sheathing knowing full well that the sheathing is used in an enclosed space between an exterior wall of a building such as siding or brick and an interior surface covering such as drywall. In such an instance, the sheathing is not exposed to view and a decorative layer would increase production costs and serve no useful purpose. Consequently, one skilled in the art would have no motivation whatsoever to provide a decorative layer on the product.

Based upon these comments it is clear that claim 4 patentably distinguishes over this art and should be allowed.

CONCLUSION

In summary, all the pending claims patentably distinguish over the prior art and should be formally allowed. Upon careful review and consideration it is believed the Examiner will agree with this proposition. Accordingly, the early issuance of a formal

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Notice of Allowance is earnestly solicited.

Applicants authorize any fees required pertaining to this response to be charged to deposit account 50-0568.

Respectfully submitted,

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